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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,672	06/21/2006	Ole Klemmt Andersen	FR030166	9233

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BRIARCLIFF MANOR, NY 10510

EXAMINER

NGUYEN, TUAN N

ART UNIT	PAPER NUMBER
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2828

MAIL DATE	DELIVERY MODE
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10/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/596,672	Applicant(s) ANDERSEN ET AL.	
	Examiner TUAN N. NGUYEN	Art Unit 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/22/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. In respond to Applicant's amendment filed 09/17/2009, claims 1, 2, and 6 have been amended. Claims 1-6 are pending.
2. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or non-obviousness.
4. Claim 1-6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thronton et al. (US 6,574,257) in view of Kitamura (US 5,986,996).

With respect to claims 1, 5, 6 Thronton et al ' 257 shows and discloses an arrangement for read-out of information from an optical information carrier, comprising a light source

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configured to illuminate said information carrier (*Fig 1,4: 12, 45,47medium as optical information carrier*); an optical system configured to receive light reflected from the information carrier and to inject the reflected light into a vertical-cavity surface- emitting laser (VCSEL) (*Fig 1:28,29,30, and d - as optical system receiving light reflected light into Fig 4: 64 VCSEL*), said VCSEL having a front side for receiving said reflected light and a rear opposite said front side wherein the VCSEL is configured to emit light through its rear; a photodetector is provided adjacent said rear to detect light emitted through the rear of the VCSEL (*Fig 4: 64, 44 where VCSEL has front #90 and rear #92, and detector #44 receive emit light through the rear of the VCSEL*); and a polarizer arranged between said rear of the VCSEL and said photodetector. The newly amended claim further requires a polarizer arranged between said rear of the VCSEL and said photodetector. Thronton et al ' 257 did not discreetly disclose a polarizer arranged between rear of the VCSEL and photodetector. However, it is within one skill in the art to use polarizer within the optical system to select the desire wavelength to be output or detected. Further more, Kitamura '996 (col 1-7) shows and discloses an optical pick-up and recording system with the use of polarizer to improve the quality of the desire wavelength throughput and feedback to the detector to and from the disc. It would have been obvious to one of ordinary skill in the art to provide Thronton et al ' 257 with the polarizer as taught or suggested by Kitamura '996, to be placed between the rear VCSEL & the detector for the benefit of pick up to desire wavelength to feedback to the optical detector. Since claims 5, 6 recites the same or identical elements/limitations it is inherent to use patents Thronton et al ' 257 in view of Kitamura '996 to recite an optical drive or the method of using, product by process.

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Claim 2 further requires, wherein the polarizer transmits light of a predetermined polarization to the photodetector. It is within one skill in the art to recognize the polarizer has been used in the laser art, and having a polarizer polarizing light prior to receive by the detector is within one skill in the art. Furthermore, Kitamura '996 or Prior Art (Fig 2) shows the use of polarizer arranged between laser beam output and the photodetector to allow only certain light to reach the detector. It would be within one skill in the art to provide the same structure layout as shown by the Prior Art to elect only certain wavelength reach the detector, as required by the claim.

With respect to claim 3, wherein the VCSEL is configured to emit light through its rear by way of a hole provided in a substrate of the VCSEL (*Fig 4: 92 as hole in rear substrate*).

With respect to claim 4, wherein the VCSEL is configured to emit light through its rear by way of a substrate of the VCSEL being transparent to the emitted wavelength. (*Fig 4: 78 VCSEL emit light through rear by way of substrate 78 and as being transparent to the emitted wavelength*).

Citation of Pertinent References

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. It is cited primarily to show the product of the instant invention.

Park et al. (US 6,023,045), Jewell et al (US 5,483,511), Yi et al. (5,874,730), Alon et al (US 6,314,071) shows the use of polarizer with respect to the detector in detecting the desire wavelength.

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Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN N. NGUYEN whose telephone number is (571) 272-1948. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harvey Minsun can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan N Nguyen/
Examiner, Art Unit 2828

/Minsun Harvey/
Supervisory Patent Examiner, Art Unit 2828